



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

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November 21, 1966

Hon. J. W. Edgar
Commissioner
Texas Education Agency
Austin, Texas

Opinion No. C-780

Re: Construction of Article
2806, Vernon's Civil
Statutes, as amended by
House Bill 166, Acts of
the 59th Legislature,
Regular Session, Chapter
37, p. 101.

Dear Mr. Edgar:

Your request for an opinion on the above subject matter poses the following question:

"Is Article 2806e (as amended in 1955) repealed by implication or otherwise by the reenactment of Article 2806, as amended in 1965 by House Bill 166, supra?"

Article 2806, Vernon's Civil Statutes, as amended by the 1965 Act, provides in part:

"(b) If only one independent school district is consolidated with one or more common school districts the consolidated district shall bear the name of such independent school district, and the board of trustees of said independent school district shall serve as the board of trustees of the consolidated district until the next regular election of trustees, as prescribed by general law, at which time the consolidated district shall elect a board of seven trustees, whose powers, duties, and terms of office shall be in accordance with the provisions of the general laws governing independent school districts, as they now exist or may be thereafter enacted; provided, if two or more independent school districts are included in such consolidation the consolidated district shall bear the name as prescribed in the petitions for consolidation but such name shall include the words 'Consolidated Independent School District', but the board of trustees of the independent school district having the greatest number of scholastics at the time of such consolidation shall serve as the board of trustees of the consoli-

dated district until the next regular election of trustees, as prescribed by general law, at which time the consolidated district shall elect a board of seven trustees, at least two of which trustees shall be elected from the area of each former independent district included in said consolidation, whose powers, duties, and terms of office shall be in accordance with the provisions of the general laws as they now exist or may hereafter be enacted; provided, further, that when it is proposed to consolidate contiguous county line districts, the petitions and election orders prescribed in this Act shall be addressed to and issued by the county judge of the county having jurisdiction over the principal school of each district and the results of the election shall be canvassed and declared by the commissioners court of said county.

"(c) If less than a majority of the votes cast in any one of the districts is in favor of the consolidation, then another election involving the same consolidation proposal may not be held until at least one year has elapsed since the date of the election."

Article 2806e, Vernon's Civil Statutes, provides:

"From and after the effective date of this Act wherever under existing law one (1) or more independent school districts are consolidated with one (1) or more common school districts or two (2) or more independent school districts are consolidated, and one of such independent school districts so consolidated with one (1) or more others, either independent or common school districts, shall have at the time of such consolidation a scholastic enrollment in excess of five (5) times that of the other district, or in excess of five (5) times the combined scholastic enrollment of all the other districts included in such consolidation, the Board of Trustees of said larger district shall serve as the Board of Trustees of the consolidated district until the terms of the respective members thereof shall expire, at which time their successors shall be elected from the consolidated district as provided by law; it being the intention to provide herein that the respective trustees of the larger district shall serve until their current terms expire and their successors are elected from the consolidated

district; and it shall not be necessary to elect another new Board for the consolidated district at the next general election following the consolidation, but there shall be elected from such consolidated district at such time only the successors to those members of the Board whose terms expire then."

Article 2806 was re-enacted by the 1965 amendment without any change of verbiage. The 1965 Act merely added the provisions set out in Subdivision (c) above quoted. The caption of the 1965 Act reads "An Act amending Article 2806 of the Revised Civil Statutes of Texas, 1925, as amended, to limit the frequency of school district consolidation elections; and declaring an emergency." Thus, the purpose of the amendment was limited to that purpose stated in the title, to wit, limiting the frequency of consolidation elections and was not intended to make other changes in the law existing at the time of the amendment. At the time of the amendment, Article 2806e, applicable to consolidation elections, involved school districts wherein an independent school district has in excess of five times the combined scholastic enrollment of the other districts included in the consolidation, and therefore constituted an exception to Article 2806, Vernon's Civil Statutes. It is our opinion that the 1965 amendment to Article 2806 did not repeal the exception provided in Article 2806e by merely re-enacting its provisions. No language is contained in the 1965 amendment as would indicate a legislative intent to change the existing law with reference to the terms of office of the Boards of Trustees. Furthermore, the title of the 1965 amendment would not authorize a construction which would repeal Article 2806e. We are in agreement with your conclusion that Article 2806e has not been repealed or modified by the provisions of House Bill 166, Acts of the 59th Legislature, Regular Session, 1965, Chapter 37, p. 101.

S U M M A R Y

House Bill 166, Acts of the 59th Legislature, Regular Session, 1965, Chapter 37, p. 101, amending Article 2806, Revised Civil Statutes of Texas, 1925, so as to limit the frequency of school district consolidation elections does not repeal the provisions of Article 2806e providing for the terms of the re-

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spective members of Boards of Trustees of certain consolidated school districts consolidated pursuant to its provisions.

Yours very truly,

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JR:mh:sck

APPROVED:
OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL
BY: T. B. Wright